

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

**IN RE: PHENYLPROPANOLAMINE  
(PPA) PRODUCTS LIABILITY  
LITIGATION**

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**This documents relates to:**

**GEORGIA JONES and JIMMY JONES,**

**Plaintiff**

**v.**

**PERRIGO, INC., et al**

**Defendants.**

**MDL DOCKET #1407**

**Civil Action No. .03-CV-03515-BJR  
(Original Civil Action No. 2:03-CV-  
02863BRS)**

**STIPULATED MOTION AND ORDER  
TO FURTHER EXTEND DISCOVERY  
PERIOD**

COME NOW, the Plaintiffs, Jimmy and Georgia Jones [hereinafter “Plaintiffs”] and the Defendants, L. Perrigo Company and Winn Dixie Stores, Inc. [hereinafter “Defendants”] and file this Stipulated Motion to Further Extend Discovery Period and, in support, set forth the following:

1. Pursuant to this Court’s denial of the parties’ Second Stipulated Motion to Extend Discovery Period, and discussions with Court personnel regarding the same, the parties

understand that the Court requires a more detailed explanation as to why a further extension of the discovery period is warranted.

2. The following facts are identified as justification as to why discovery in this matter should be extended:

(a) In reviewing the medical records provided by the Plaintiffs and obtained pursuant to medical authorizations signed by Mr. Jones, the Defendants identified three doctors that needed to be deposed regarding Mr. Jones' health prior to the stroke, treatment for the stroke and his health after the stroke. These doctors are Dr. Frank Harmon (who treated Mr. Jones for hypertension prior to his stroke and who was deposed on October 13, 2004), Dr. Orphan Ilercil (who performed neurosurgery on Mr. Jones at the time of his stroke and who cannot be deposed until January, 2005), and Dr. William Reid (who treated Mr. Jones for hypertension after his stroke and who has refused to give deposition dates).

(b) Great difficulty has been encountered with regard to scheduling the deposition of Dr. Ilercil who, by the time the present action was filed, had left his practice in Meridian, Mississippi. His current location was unknown to his former clinic. After extensive searching, Dr. Ilercil was finally located in Kalamazoo, Michigan in late September, 2004. However, he was in the process of relocating his practice to Jackson, Mississippi, and was unable to schedule his deposition until situated in his new practice. Dr. Ilercil's office has related that he can be available in January for deposition.

(c) Dr. William Reid has refused to respond to numerous requests for deposition dates and has now flatly refused to give a deposition on this case. If his deposition is to be taken, it will have to be pursuant to subpoena. It is hoped that once

the other physicians' depositions are taken, this will not be necessary. However, this determination cannot be made until the remaining physicians have been deposed.

(d) Dr. Frank Harmon was deposed on October 13, 2004. During his deposition Dr. Harmon noted that Mr. Jones had been treated by Dr. Edward Carruth for hypertension prior to becoming a patient. Dr. Harmon also noted that Mr. Jones' medical records indicate that he was being treated by another physician for hypertension between 1996 and 2000 (there is a gap in Mr. Jones' medical history for this time period). It is anticipated that Dr. Carruth treated Mr. Jones during this time period. Attempts have been made since Dr. Harmon's deposition to locate Dr. Carruth and the medical records associated with his treatment of Mr. Jones. Mr. Jones' medical records have been requested from the two clinics in which Dr. Carruth practiced, Family Medical Clinic in Meridian, Mississippi ("Family Medical") and the Central Mississippi Family Clinic in Meridian, Mississippi ("Central"). Family Medical has advised that any records responsive to the request will be in storage at two possible off-site locations. At present, Family Medical has not had available personnel to search through storage for these records. However, they have been made aware of the urgency of locating these records. With regard to Central, Hunter Medical handles the production of medical records for this clinic. Central has advised that it appears Hunter sent documents on November 3, 2004 responsive to the Defendants' request for Mr. Jones' medical records. These documents were not received and Hunter does not maintain records of what documents were sent. Accordingly, we have been advised that Hunter will have to review the records again and forward copies of the relevant documents. A representative from Hunter was scheduled to visit Central on Tuesday, December 21, 2004. It is anticipated that these documents

will be received shortly. As for the deposition of Dr. Carruth, he has retired and his current location is unknown. However, several individuals have advised that he is still in the Meridian, Mississippi area. Presently, we are attempting to determine his home address and/or contact information through various professional and educational organizations to which he may belong.

3. The Defendants and the Plaintiffs agree that the above-referenced discovery is vital to determine the merits of this case and whether or not this case can be resolved in MDL or whether it will need to be remanded for further proceedings in transferring court. Accordingly, the parties agree that a sixty-day extension of the discovery deadline is warranted.

4. The parties have attached hereto as Exhibit "A" a draft order granting this stipulated motion.

WHEREFORE, PREMISES CONSIDERED, the parties request that this Court enter an Order setting the deadline of February 14, 2005 for the completion of discovery allowed in this Court.

THIS, the 22<sup>nd</sup> day of December, 2004.

Respectfully submitted,

L. PERRIGO COMPANY  
WINN DIXIE STORES, INC.

By Their Attorneys  
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s/ Neville H. Boschert  
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JIMMY & GEORGIA JONES

By Their Attorneys  
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s/ J. Rod Nixon  
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## CERTIFICATE OF SERVICE

I do hereby certify that I have electronically filed the foregoing document with the Clerk of the Court using the CM/ECP system which will send notification of such filing to the following:

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THIS, the 22<sup>nd</sup> day of December, 2004

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**EXHIBIT "A"**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

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**v.**

**PERRIGO CORPORATION,  
DOLLAR GENERAL CORPORATION,  
and JOHN DOE DEFENDANTS 1-50,**

**Defendants.**

**ORDER**

Considering the foregoing Stipulated Motion and Order to Further Extend Discovery Period filed on behalf of Plaintiffs, Jimmy and Georgia Jones and Defendants, L. Perrigo Company ("Perrigo") and Winn Dixie Stores, Inc. ("Winn Dixie").

IT IS HEREBY ORDERED THAT the discovery allowed under this Court's previous orders be completed on or before February 14, 2005.

THUS DONE AND SIGNED on this the \_\_\_\_ day of \_\_\_\_\_, 2004.

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**BARBARA JACOBS ROTHSTEIN  
UNITED STATES DISTRICT COURT JUDGE**